

To the Members of the California State Assembly:

I am returning Assembly Bill 2 without my signature.

I have repeatedly indicated I would support a bill that provides strong statutory protections for consumers against inappropriate rescissions by health plans. However, this bill continues to have a provision that benefits trial lawyers rather than consumers. I remain comfortable sending this bill back for a second time without my signature because of the strong consumer protections the Department of Managed Health Care and Department of Insurance have successfully implemented over the past two years. The number of rescissions industry-wide has decreased significantly since 2005. Millions of dollars have been assessed against health plans and insurers; corrective action plans have been received and approved; revised consumer disclosures have been reviewed for literacy, consistency and compliance with the settlement agreements; and lastly, the two departments are working together to ensure that all health plans meet the same standards of fairness and full disclosure. The market has changed – and it is because of my Administration’s strong action in this area.

The precedent-setting 4th District Court of Appeals decision in Hailey v. Blue Shield relied heavily on the Department of Managed Health Care’s amicus brief. The court’s reliance on this brief speaks to the strong work of the Department and the balance required when enacting consumer protections and ensuring access to the individual health plan market. I have no interest in overturning that appellate decision and the definitive interpretation of the post-claims underwriting statute.

In addition, I have signed targeted measures that prohibit plans from financially incentivizing their employees to rescind or cancel policies; require plans to offer coverage to families when the individual on the contract has been rescinded or cancelled; and most recently, I have signed Assembly Bill 108 that will prohibit a health plan from rescinding or canceling a contract after 24 months.

I would request that the Legislature send me a bill that codifies the *Hailey* decision, as I have asked for since 2008. When that occurs, I will be happy to sign that bill.

Sincerely,

Arnold Schwarzenegger